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ARIZONA CORPORATION COMMISSION

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DOCKET NO. E-01345A-98-0473

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR
APPROVAL OF ITS STRANDED COST
RECOVERY.

IN THE MATTER OF THE FILING OF
ARIZONA PUBLIC SERVICE COMPANY OF
UNBUNDLED TARIFFS PURSUANT TO A.A.C.
R14-2-1601 et. seq.

IN THE MATTER OF THE COMPETITION IN
THE PROVISION OF ELECTRIC SERVICES
THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. E-01345A-97-0773

DOCKET NO. RE-00000C-94-0165

COMMENTS OF THE ARIZONA TRANSMISSION
DEPENDENT UTILITY GROUP ON THE FINAL
CODE OF CONDUCT SUBMITTED BY ARIZONA
PUBLIC SERVICE COMPANY

The Arizona Transmission Dependent Utility Group¹ ("ATDUG"), by its undersigned counsel, herewith submits its comments on the final version of the Code of Conduct submitted by Arizona Public Service Company ("APS") on January 5, 2000. These comments will also include observations concerning the Policies and Procedures APS believes are necessary to implement its Code of Conduct. These Policies and Procedures were submitted by APS on January 12, 2000.

¹ Aguila Irrigation District, Ak-Chin Indian Community, Buckeye Water Conservation and Drainage District, Central Arizona Water Conservation District, Electrical District No. 3, Electrical District No. 4, Electrical District No. 5, Electrical District No. 7, Electrical District No. 8, Harquahala Valley Power District, Maricopa County Municipal Water District No. 1, McMullen Valley Water Conservation and Drainage District, Roosevelt Irrigation District, City of Safford, Tonopah Irrigation District, Wellton-Mohawk Irrigation and Drainage District.

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If APS is going to attempt this exercise, and the Commission is disposed to allow it to do so, then some additional detail concerning safeguards to prevent cross-subsidization and access to information should be included in the Code of Conduct. For instance, we should know what cross-subsidization APS believes can be allowed in spite of subsection 3.1 and what costs and revenues will not be segregated under subsection 3.2. We should have an explanation of why the reference to cross-subsidization was dropped from subsection 4.1.2. We do not see how Bill Post and Jack Davis can sit in a board meeting of APS and learn information that would be valuable to Vicki Sandler and Arizona Public Service Energy Services ("APSES") and then sit as the board for APSES and not divulge that information to acquit a fiduciary responsibility to that company. Since APSES may compete with APS in terms of

1 taking customers away from standard offer of service, the competitive tension
2 between the two companies would seem to make it impossible to acquit full
3 fiduciary responsibility to both. If that is where we are going, however,
4 then more detail about how the information and financial walls are going to
5 be built needs to be included in this Code of Conduct.

6 DEFINITIONS

7 We appreciate the additional clarity that is provided in the Policies
8 and Procedures. However, the key definitions added there, such as Support
9 Officer and Line Officer, should be in the Code of Conduct. We understand
10 that APS would like to be able to adjust its implementation policies without
11 having to go through a rulemaking at the Commission. However, the key
12 building blocks to the Code of Conduct are terms of art being used by APS and
13 all of them should be in the Code of Conduct.

14 There are also a number of terms capitalized in the Policies and
15 Procedures that are not defined therein, nor in the Code of Conduct, the
16 Commission Rules or the statutes. If these definitions are found elsewhere
17 in an APS public document, we could avoid turning the Code of Conduct into a
18 book by referencing these other available documents. We presume that all
19 these terms are familiar to APS but they are not to us, and, more
20 importantly, obviously not to the general consumer public.

21 By commenting on their Policies and Procedures, we are not taking a
22 position that these Policies and Procedures need to be formally approved by
23 the Commission. We have some problems with them and in matching them to the
24 Code of Conduct, but we have no inherent objection to APS having a set of
25 Policies and Procedures to implement its Code of Conduct that does not

1 require ongoing rulemaking supervision. We note that APS has committed in
2 the Code of Conduct to following such Policies and Procedures as a vehicle
3 for implementing the Code of Conduct. We believe that is an adequate
4 arrangement if the inconsistencies and problems can be resolved.

5 SEPARATION OF FUNCTIONS

6 Subsection 4.1.7 and its corresponding policy apply only to electric
7 service providers (ESPs). Does that mean that APS intends to discriminate
8 against entities that are lawfully providing one or more retail electric
9 services in Arizona but are not ESPs because they are not subject to
10 Commission jurisdiction? Since it is the consumer that is protected
11 ultimately by this Code of Conduct, should not APS be subject to the same
12 standards of conduct regardless of the type of entity involved?

13 In subsection 4.2, APS sets up a bar to preferential treatment between
14 it and its affiliates as it relates to non-affiliated ESPs (subsection
15 4.2.2). In the very next subsection (4.2.3), APS avows that it will provide
16 nondiscriminatory application of its tariff provisions whether involving an
17 affiliate or "other market participants", a term that seems to be somewhat
18 broader than "ESP". If APS is promising to be nondiscriminatory in its
19 tariff application as to all entities, we applaud that intent. However, the
20 provisions of this subsection seem internally inconsistent. These
21 inconsistencies raise the question whether this Code of Conduct is intended
22 to be limited solely in its application to affiliates and ESPs. (See also
23 4.3.6 and 4.3.7.)

24 Before this process concludes, it should be crystal clear whether this
25 Code of Conduct applies to APS conduct involving non-jurisdictional entities

1 or not. Either it does or it doesn't. We can deal with the situation either
2 way, but confusion as to the scope of the Code of Conduct should be
3 eliminated.

4 ACCESS TO INFORMATION

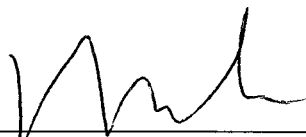
5 The Code of Conduct talks about providing information to Affiliates and
6 non-Affiliates. It does not confine its provisions to ESPs, nor should it.
7 However, the Policies and Procedures, while addressing "any other party"
8 concerning customer-specific information, limit discussion of UDC-specific
9 information to other ESPs. Either the Code of Conduct section and the
10 implementing policy and procedure provision apply to all non-Affiliates, "any
11 other party", or some other broad categorization, or they apply only to ESPs.
12 We believe that this provision should have a broad sweep and apply to all
13 inquiries concerning customer information and system information. Since the
14 ultimate consumer is the ultimate beneficiary of the Code of Conduct,
15 applying it to all inquiries, whether by ESPs or not, is sound public policy.

16 CONCLUSION

17 The additional adjustments we have suggested will provide more detail
18 and precision to the Code of Conduct and avoid future controversy.
19 Ultimately, the Commission must decide whether it will require a Code of
20 Conduct by its jurisdictional utilities that apply to those utilities
21 regardless of whether they are dealing with other jurisdictional utilities,
22 or if it will confine the scope of the Commission's oversight merely to
23 inter-utility activity within the jurisdictional family. Whichever way the
24 Commission decides to go, it should start now. This proceeding is the
25 perfect vehicle for setting the pattern for the future.

1 RESPECTFULLY SUBMITTED this 18th day of January, 2000.

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3 ARIZONA TRANSMISSION DEPENDENT
UTILITY GROUP

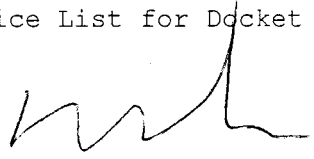
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5 By 
6 Robert S. Lynch
7 Attorney at Law
8 340 E. Palm Lane, Suite 140
9 Phoenix, Arizona 85004-4529

10 Original and 18 copies of the
11 foregoing filed this 18th day
12 of January, 2000 with:

13 Docket Control
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona

17 Copies of the foregoing mailed
18 this 18th day of January, 2000,
19 to:

20 Service List for Docket No. RE-00000C-94-0165

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